

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	Docket No. 13 CR 515
vs.	)	
DMITRY FIRTASH and ANDRAS	)	
KNOPP,	)	Chicago, Illinois
	)	July 2, 2018
Defendants.	)	9:08 a.m.

TRANSCRIPT OF PROCEEDINGS - Status  
BEFORE THE HONORABLE REBECCA R. PALLMEYER

APPEARANCES:

For the Plaintiff:	HON. JOHN R. LAUSCH JR. UNITED STATES ATTORNEY BY: MR. AMARJEET S. BHACHU 219 South Dearborn Street Chicago, Illinois 60604
	UNITED STATES DEPARTMENT OF JUSTICE BY: MR. CHRISTOPHER J. CESTARO 1400 New York Ave. NW Washington, DC 20530
For the Defendant Dmitry Firtash:	WINSTON & STRAWN LLP BY: MR. DAN K. WEBB MR. MATTHEW R. CARTER 35 West Wacker Drive Chicago, Illinois 60601
For the Defendant Andras Knopp:	LAW OFFICES OF CAROLYN GURLAND BY: MS. CAROLYN PELLING GURLAND 414 North Clay Street Hinsdale, Illinois 60521

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1 THE CLERK: 13 CR 515, United States versus Dmitry  
2 Firtash and Andras Knopp for status.

3 MR. BHACHU: Good morning, your Honor.

4 Amar Bhachu and Chris Cestaro -- his last name is  
5 spelled C-e-s-t-a-r-o -- on behalf of the United States.

6 THE COURT: Good morning.

7 MR. WEBB: Your Honor, Dan Webb and Matt Carter on  
8 behalf of the Defendant Dmitry Firtash.

9 THE COURT: Good morning.

10 MS. GURLAND: Good morning, your Honor.

11 Carolyn Gurland on behalf of Andras Knopp.

12 THE COURT: Okay. And what's our status?

13 I know that I got letters from counsel earlier in  
14 the summer.

15 What's our current status?

16 MR. WEBB: I am going to give you a quick status.

17 THE COURT: Okay.

18 MR. WEBB: This stuff is complicated in Austria,  
19 but I'm going to give you a quick status.

20 And thank you for hearing us today, because this  
21 status is a little more imminent than earlier ones, which I  
22 updated you in letters.

23 THE COURT: Right.

24 MR. WEBB: And I do appreciate you considering it.

25 THE COURT: Right.

1 MR. WEBB: So, as your Honor knows, we got this  
2 motion pending that was fully briefed at the end of August.  
3 You gave us two days of argument, which we have had, and I  
4 have continued to give you updates.

5 The status is the following: That there is this  
6 court in the EU called the Court of Justice of the European  
7 Union. It has before it a case that is called XC and Others.  
8 That is a case that actually is considering at least what I'm  
9 told is a very critical issue that affects my client's case  
10 before the Austrian Supreme Court.

11 That is a case that is deciding the applicability  
12 of the EU Charter on Human Rights to extraordinary appeal  
13 proceedings before the Austrian Supreme Court, which my  
14 client currently has a case before the Austrian Supreme  
15 Court, which I'm going to use the word "stayed," and it's not  
16 active right now. They are waiting for this decision to come  
17 down.

18 That decision is going to come down, and we know  
19 it's going to come down because of the following.

20 THE COURT: Before you tell me that, let me just  
21 ask one question and make sure I understand this.

22 This case, XC and Others, that's in the EU Court of  
23 Justice -- Court of Justice of the European Union is  
24 addressing -- is considering a procedure that's in the  
25 Austrian Supreme Court. It's directed at the same court that

1 involves your client.

2 MR. WEBB: That's correct.

3 THE COURT: All right. Go ahead.

4 MR. WEBB: Thank you. Yes, your Honor.

5 So we know what's likely to happen because on June  
6 5th, a couple weeks ago -- June 5th, an opinion came down  
7 from that court. It's called an advisory opinion, and it's  
8 issued by someone called the Advocate General, who is some  
9 type of official with that court.

10 And that opinion states, in essence, that there is  
11 no obligation for the Austrian Supreme Court to apply the ECU  
12 Charter on Human Rights in a case like Dmitry has -- Dmitry  
13 Firtash has before the Austrian Supreme Court. That's a  
14 significant decision.

15 Now, that is an advisory opinion. However, I am  
16 told by the Austrian lawyers that this European court will  
17 almost always follow that advisory opinion. And so it's  
18 highly likely that the Court of Justice of the European Union  
19 is going to follow the advisory opinion and enter the opinion  
20 I just described to you.

21 When that happens, I'm told that Mr. Firtash's  
22 Austrian Supreme Court case will become reactivated  
23 immediately before the Austrian Supreme Court and that he  
24 will face extradition shortly. I'm told maybe the end of  
25 August or in September.

1           Now, nobody knows these things for sure, but the  
2     reason they asked me to come before you as opposed to just  
3     doing a letter update is because this is, at least they  
4     believe, much more imminent that he will face extradition.  
5     And as your Honor knows when we argued this, we are obviously  
6     hoping that if we got a decision on these critical venue and  
7     jurisdiction issues, it would have a profound impact on  
8     whether this man gets put on a plane back to the U.S. and is  
9     maybe incarcerated.

10           So that's why they asked me to come here, and  
11     that's the update. We are just updating you, and asking you  
12     whether it's possible to expedite or where things stand.  
13     That's why we came. And we appreciate the chance to give you  
14     the update.

15           THE COURT: Anything -- Ms. Gurland, do you want to  
16     add anything on behalf of Mr. Knopp?

17           MS. GURLAND: Nothing specific, your Honor.

18           I wrote a letter and sent it to the Court along  
19     with the letter from Mr. Firtash. And all of the facts in  
20     that letter remain the same, although he will be 80 on  
21     September 1st, and he remains not in the best of health. And  
22     he remains in a situation where he is in Moscow not having  
23     access to his doctors, who are in Budapest, and not having as  
24     regular contact as he would like to have with his family, who  
25     are either in Budapest or in London. That was the situation

1 as I explained it in the letter, and that remains the  
2 situation today, other than, of course, he is older.

3 THE COURT: Got it.

4 For the government?

5 MR. BHACHU: Judge, what I just observed is that  
6 the initial motions to dismiss in this case were filed, I  
7 believe, last May. And since that time, we have been told  
8 several times by, I think, Austrian counsel for Mr. Firtash  
9 that things were about to happen. And I think I told you  
10 when we appeared on the motion to dismiss it's pretty  
11 difficult to figure out exactly what's going on in Europe.

12 After that point in time, we had several updates  
13 where Austrian counsel, I think, for Mr. Firtash suggested  
14 something was about to happen and then something wasn't about  
15 to happen and then something was about to happen.

16 I would just say to your Honor that, in my view,  
17 it's been very difficult to figure out exactly what the  
18 course of proceedings in Austria is.

19 It is correct that there was an advisory opinion  
20 that was issued several weeks ago, but the timeline within  
21 which the European court will then rule, after having  
22 received that recommendation -- so what it is, is it's a  
23 recommendation basically about how they should rule.  
24 Probably much the same way as a magistrate might submit a  
25 recommendation to your Honor.

1 THE COURT: Right.

2 MR. BHACHU: The timeline under which the European  
3 court will rule is indeterminate.

4 I think I could project two things happening for  
5 sure.

6 One is that Mr. Firtash's Austrian counsel, if he  
7 is unsuccessful in his appeal to the Austrian Supreme Court,  
8 will attempt to take a further appeal to the European Court  
9 of Human Rights. That's the kind of standard playbook for  
10 people trying to avoid extradition to the United States.

11 And so that process -- whether or not that process  
12 would result in a further delay in his extradition is unknown  
13 at this point in time. And that's something that would  
14 really depend upon the decision of the Austrian government.  
15 They might decide to let him stay in Austria pending a  
16 decision from the European Court of Human Rights, which could  
17 take another two to three years, or they could ship him back  
18 pending that decision. It's just not known at this juncture.

19 The other thing I just want to stress with regard  
20 to these motions, which we made at this point before, I also  
21 suspect that Austrian counsel would likely, if there was any  
22 sort of ruling from this court, use it as an opportunity to  
23 try, as they are doing with the other proceedings in Europe,  
24 to restart the extradition process in Austria anew. So that  
25 if your Honor issued some sort of adverse ruling to the

1 government here and we were able to cure it promptly through  
2 a superseding indictment or something like that -- I don't  
3 think we need to do that, obviously, for the reasons we  
4 already talked about. But what I imagine would happen is,  
5 there would be an effort to restart the extradition process  
6 in Austria, thus delaying potential extradition for another  
7 four years.

8 So my point is, I think that it's really  
9 indeterminate to know what's going on in Austria right now.  
10 There are proceedings that are still pending, but I don't  
11 think it's fair to say that we know exactly when those  
12 proceedings are going to conclude.

13 MR. WEBB: I would agree that there is uncertainty.  
14 I agree with that. Although there is no question this  
15 development in June is a big deal over there. And if that  
16 Austrian Supreme Court in two weeks orders him extradited, at  
17 least I'm told that that court is not likely to stay things  
18 any further because of an appeal to this human rights court.  
19 I can't tell you that for certain, but I do know there is  
20 clearly a sense of immediacy and concern.

21 And I appreciate you hearing us.

22 THE COURT: Okay. So I interpret what I am hearing  
23 as, although there may or may not have been a reason for  
24 urgency before this, there certainly is, at least from  
25 defendant's perspective, now.

1 I don't believe that it makes any sense for me to  
2 delay a whole lot longer in ruling. I recognize there may or  
3 may not be any genuine urgency for the reasons that  
4 Mr. Bhachu mentioned. But it's been briefed. I'm in a  
5 position to rule on it now, so that's what I will do.

6 Recognizing that you have got two weeks or four  
7 weeks, or whatever it might be, why don't you let me know if  
8 anything else does happen. You can do that even by a letter,  
9 as you have done.

10 And I'm assuming that there is no big change in the  
11 law between now and when it was last briefed. If there is  
12 something new that's come down that you want me to know  
13 about, I want to give you about seven days to do that. So if  
14 there is something new that you want to add to your briefs,  
15 please do so immediately.

16 MR. WEBB: I believe the answer is no, there is  
17 nothing new that we have to add.

18 THE COURT: That's my expectation as well. I have  
19 been kind of following the law, and I don't see anything  
20 particularly new.

21 MR. WEBB: We don't either.

22 THE COURT: If there is something I don't know  
23 about, you can let me know.

24 MS. GURLAND: We will look, your Honor.

25 As we had mentioned at the oral argument, that *RJR*

1     *Nabisco* case was relatively new at the time. And one of the  
2     points that we had argued was that there was relatively  
3     little guidance to federal courts about how they should  
4     interpret this, and it's relatively complicated because it  
5     applies differently to RICO than to money laundering than to  
6     Travel Act. So there is some chance that some federal courts  
7     have come down with some guidance. And if that is true, we  
8     will get you something in seven days, as you have asked.

9             THE COURT: Okay. That's great.

10            MR. BHACHU: Very good, Judge.

11            THE COURT: All right. Thank you.

12            MR. WEBB: Thank you, your Honor.

13                     \*    \*    \*    \*    \*

14     I certify that the foregoing is a correct transcript from the  
15     record of proceedings in the above-entitled matter.

16     /s/ Frances Ward   July 30, 2018.  
17     Official Court Reporter  
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